

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IZAIHA ALLEN LIMP,)	
)	
Plaintiff,)	
)	
v.)	No. 1:18-cv-04057-TWP-DLP
)	
MARION CO. SHERIFF'S OFFICE,)	
JOHNSON CO. SHERIFF'S OFFICE,)	
)	
Defendants.)	

Order Dismissing Complaint and Directing Filing of Amended Complaint

Plaintiff Izaiha Limp, an inmate at Pendleton Correctional Facility, brings this action pursuant to 42 U.S.C. § 1983 alleging that another inmate assaulted him with bodily fluids. Because the plaintiff is a “prisoner” as defined by 28 U.S.C. § 1915A(c), this Court has an obligation under 28 U.S.C. § 1915A(b) to screen his complaint before service on the defendants.

I. Screening Standard

Pursuant to 28 U.S.C. § 1915A(b), the Court must dismiss the complaint if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. In determining whether the complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017). To survive dismissal,

[the] complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Pro se complaints such as that filed by the plaintiff are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015) (internal quotation omitted).

II. Discussion

Limp contends that, in November of 2018, while he was confined at the Marion County Jail, another inmate assaulted him with bodily fluids and he was not permitted to shower. He sues the Marion County Sheriff's Office and Johnson County Sheriff's Office. But governmental entities cannot be held liable for the unconstitutional acts of their employees unless those acts were carried out pursuant to an official custom or policy. *Grieverson v. Anderson*, 538 F.3d 763, 771 (7th Cir. 2008) (citing *Pourghoraishi v. Flying J, Inc.*, 449 F.3d 751, 765 (7th Cir. 2006); *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978)). Limp has made no allegation of a custom or policy against either the Marion County Sheriff's Office or the Johnson County Sheriff's Office. Limp has not otherwise named any individual who was allegedly personally responsible for the acts at issue. "Individual liability under § 1983... requires personal involvement in the alleged constitutional deprivation." *Colbert v. City of Chicago*, 851 F.3d 649, 657 (7th Cir. 2017) (internal quotation omitted) (citing *Wolf-Lillie v. Sonquist*, 699 F.2d 864, 869 (7th Cir. 1983)).

Because the Court has been unable to identify a viable claim for relief against any defendant, the complaint is subject to dismissal.

III. Opportunity to Amend

The dismissal of the complaint will not in this instance lead to the dismissal of the action at present. Instead, the plaintiff shall have **through April 19, 2019, to file an amended complaint.** *See Tate v. SCR Med. Transp.*, 809 F.3d 343, 346 (7th Cir. 2015) ("We've often said that before

dismissing a case under 28 U.S.C. § 1915(e)(2)(B)(ii) a judge should give the litigant, especially a pro se litigant, an opportunity to amend his complaint.”).

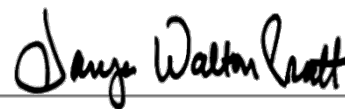
The amended complaint must (a) contain a short and plain statement of the claim showing that the plaintiff is entitled to relief, which is sufficient to provide the defendant with fair notice of the claim and its basis; (b) include a demand for the relief sought; and (c) identify what injury he claims to have suffered and what persons are responsible for each such injury. In organizing his complaint, the plaintiff may benefit from utilizing the Court’s complaint form. The **clerk is directed** to include a copy of the prisoner civil rights complaint form along with the plaintiff’s copy of this Entry.

Any amended complaint should have the proper case number, 1:18-cv-04057-TWP-DLP and the words “Amended Complaint” on the first page. The amended complaint will completely replace the original. *See Beal v. Beller*, 847 F.3d 897, 901 (7th Cir. 2017) (“For pleading purposes, once an amended complaint is filed, the original complaint drops out of the picture.”). Therefore, it must set out every defendant, claim, and factual allegation the plaintiff wishes to pursue in this action.

If the plaintiff files an amended complaint, it will be screened pursuant to 28 U.S.C. § 1915A(b). If no amended complaint is filed, this action will be dismissed without further notice or opportunity to show cause.

IT IS SO ORDERED.

Date: 3/20/2019

A handwritten signature in black ink, reading "Tanya Walton Pratt", is written over a horizontal line.

TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

IZAIHA ALLEN LIMP

108616

PENDLETON - CORRECTIONAL INDUSTRIAL FACILITY

CORRECTIONAL INDUSTRIAL FACILITY

Inmate Mail/Parcels

5124 West Reformatory Road

PENDLETON, IN 46064